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9 UNITED STATES DISTRICT COURT
10 DISTRICT OF NEVADA

11 LOUIS LONG,)	CASE NO.: 2:17-cv-01297-JAD-GWF
)	
12 Plaintiff,)	
)	
13 vs.)	DISCOVERY PLAN AND
)	SCHEDULING ORDER
14 HARTFORD LIFE AND ACCIDENT)	
15 INSURANCE COMPANY, as Claims)	(Special Scheduling Review
16 Administrator for the Group Long Term)	Requested)
17 Disability Plan for TARGET Corp.; DOES I)	
18 through V; and ROE CORPORATIONS I)	
19 through V, inclusive,)	
)	
20 Defendants.)	

21 Plaintiff LOUIS LONG and Defendant HARTFORD LIFE AND ACCIDENT
22 INSURANCE COMPANY ("HARTFORD") jointly request special scheduling review and
23 submit the following discovery plan and order for this case.

24 **I. Rule 26(f) Conference.**

25 In accordance with Fed. R. Civ. P. 26(f), a telephonic conference was held on July 10,
26 2017 between Julie A. Mersch, counsel for the plaintiff, and Kristina Holmstrom, counsel for
HARTFORD. The parties agree that the standard discovery plan is not best suited for this
lawsuit, for the reasons set forth below. The parties further certify, pursuant to LR 26-1(b)(7-
8), that they have met and conferred regarding the possibility of using alternate dispute-
resolution processes and alternate forms of case disposition including consent to trial by a

1 magistrate judge and the use of the Short Trial Program. The provisions of LR 26-1(b)(9) do
2 not apply as no jury trial is demanded in this matter.

3 **II. Nature of Case and Purpose of Special Review.**

4 This claim involves payment of long-term disability benefits under a group insurance
5 plan administered by LONG's employer, Target Corp. (Plan Administrator) for the benefit of
6 its employees. Target delegated the administration of claims under the plan to Defendant
7 HARTFORD (Claims Administrator). The Plaintiff's complaint alleges a claim under the
8 Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001, et seq. ("ERISA"),
9 seeking 1) a declaratory judgment for the construction and applicability of the long-term
10 disability insurance policy offset provision and payment of benefits withheld as a result of
11 application of the offset provision resulting in reduced benefits; and 2) reinstatement of long-
12 term disability benefits terminated by HARTFORD and payment of past benefits. This action
13 is brought pursuant to § 502(a)(1)(B) of ERISA (29 U.S.C. §§ 1132 (a)(1)(B)). Discovery
14 may be limited to the administrative record for Plaintiff's administrative claim and appeal.
15 The administrative record consists of the information that was before Defendant at the time
16 of its final decision, which includes, inter alia, Plaintiff's medical records, Plaintiff's
17 arguments for the payment of benefits, the Plan Administrator's and Claim Administrator's
18 decisions, and the long-term disability plan documents.

19 No discovery plan and scheduling order is generally required for review of an
20 administrative record. LR 16-1(c)(1). An action for an administrative review usually requires
21 that the parties file a briefing schedule. LR 16-1(c). Accordingly, the parties jointly request
22 that this Court review and adopt the proposed non-standard discovery and case schedule set
23 forth below:

24 **III. Proposed Plan**

25 The parties have conferred and agree as follows:

26 **A. Production of the Administrative Record:** HARTFORD will disclose a

1 copy of the ERISA administrative record by Monday, August 7, 2017.

2 **B. Meet and Confer Period:** LONG intends to conduct discovery in this matter.
3 Accordingly, LONG will serve HARTFORD by Monday, August 21, 2017 with written
4 discovery and will identify any other form of discovery, such as deposition discovery, he
5 would like to conduct. The parties will then meet and confer with each other to (1) identify
6 areas of agreement about permissible ERISA discovery; (2) narrow the discovery requests, if
7 possible, to gain agreement about permissible ERISA discovery and narrow areas of dispute
8 about permissible areas of ERISA discovery. Defendant's responses to written discovery
9 will be due by Monday, September 25, 2017.

10 **C. Filing of Administrative Record/Briefing re: ERISA Discovery Disputes:**
11 To the extent that, after the meet and confer period, the parties disagree as to the
12 permissible scope of discovery and type of discovery, on or before Monday, October 2,
13 2017, the parties will simultaneously brief the Court and request a ruling on any remaining
14 disputes, after Defendant has responded to written discovery. Each party will set forth its
15 position in no more than 10 pages. If further discovery is permitted, the Court may set a
16 reasonable time deadline for completion of discovery at that time. If no discovery briefs are
17 filed, on or before Monday, October 16, 2017, Defendants will file a joint administrative
18 record with this Court, the contents of which will be agreed upon by the parties.

19 **D. Briefing Schedule for the Merits of the Case:** If a joint administrative
20 record is timely filed and simultaneous motions are not filed under Paragraph III.C., above,
21 Plaintiff's Rule 52 and/or Rule 56 Motion shall be filed by Monday, November 6, 2017.
22 Defendant's response will be due on Friday, December 15, 2017, and Plaintiff's reply
23 memoranda will be due Friday, January 12, 2018.

24 **IV. Settlement.**

25 On April 7, 2017, the parties attempted to mediate the case before (Ret.) Magistrate
26 Hon. Lawrence Leavitt. The mediation was not successful. Therefore, the parties anticipate

1 that this case will need to be decided on the merits.

2 DATED: August 3, 2017

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8 DATED: August 3, 2017

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14 **IT IS SO ORDERED:**

15 Dated this 4th day of August, 2017.

16
17 
18 UNITED STATES MAGISTRATE JUDGE